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Attorney for Defendant
UNITED PARCEL SERVICE, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NICHOLAS STEPHENS

Plaintiff,

v.

UNITED PARCEL SERVICE, INC.;
LIBERTY MUTUAL INSURANCE
COMPANY, INC.

Defendants.

Case No.:

NOTICE OF REMOVAL

DEMAND FOR JURY TRIAL

Dept.: TBD

Judge: TBD

Complaint Filed: October 16, 2023

Trial Date: Not Yet Set

United Parcel Service, Inc. (hereinafter “Defendant” or “UPS”), by counsel and pursuant to 28 U.S.C. sections 1332, 1441, and 1446, hereby gives notice of the removal of the above-styled action to this Court. In support of its Notice of Removal, Defendant states as follows:

THE STATE COURT ACTION

1. On October 16, 2023, Plaintiff Nicholas Stephens (“Plaintiff”) filed a complaint against Defendant in the Superior Court of Alameda, California in the matter entitled *Nicholas Stephens v. United Parcel Service, Inc. , Liberty Mutual Insurance Company, Inc. and DOES 1-10*, Case No. 23CV047357 (the “State Court Action”). In

1 accordance with 28 U.S.C. § 1446(a), a true and correct copy of the Complaint,
2 summons, and all process and pleadings, which were deemed served upon Defendant
3 in the State Court Action on October 16, 2023, are attached hereto as **Exhibits A - D**.

4 2. While Defendant contends that the allegations in Plaintiff's Complaint
5 lack merit, Plaintiff alleges only a negligence cause of action against Defendant.

6 3. No further proceedings have occurred in the State Court Action.

7 4. To the best of Defendant's knowledge, although fictitious "Doe"
8 Defendants are listed on the Complaint, no other defendants, including Liberty Mutual
9 Insurance Company, Inc. have been properly served with the Complaint. For purposes
10 of removal, "the citizenship of defendants sued under fictitious names shall be
11 disregarded." 28 U.S.C. § 1441(b)(1).

12 5. Defendant United Parcel Service, Inc. was served with, and actually
13 received copies of the State Court Action on October 23, 2023, within thirty (30) days
14 of this Notice of Removal.

15 **REMOVAL PROCEDURES AND VENUE**

16 6. Defendant has not filed an answer or otherwise responded to the
17 Complaint. This Notice of Removal is filed within thirty (30) days of Defendant's
18 notice of the lawsuit and is timely filed in accordance with 28 U.S.C. § 1446(b).
19 Furthermore, this Notice of Removal is filed less than one (1) year from the
20 commencement of this action pursuant to 28 U.S.C. § 1446(c)(1).

21 7. In accordance with 28 U.S.C. § 1446(d), Defendant will promptly provide
22 written notice of the filing of this Notice to Plaintiff.

23 8. Pursuant to 28 U.S.C § 1446(d), Defendant will also file a duplicate copy
24 of this Notice with the Clerk of the Superior Court for Alameda, California.

25 9. In accordance with 28 U.S.C. § 1446(b), venue is properly placed in the
26 United States District Court for the Northern District of California because it is the
27 district court for the district and division where the State Court Action is pending
28 (Superior Court for the State of California, County of Alameda).

1 10. Further, this action is not an action made non-removable by 28 U.S.C. §
2 1445(c).

3 **BASIS FOR REMOVAL**

4 11. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332, diversity
5 jurisdiction, as this is a civil action between citizens of different states and the amount
6 in controversy exceeds, \$75,000, exclusive of interest and costs.

7 **COMPLETE DIVERSITY OF CITIZENSHIP**

8 12. Plaintiff is an individual domiciled in the state of California. Accordingly,
9 Plaintiff is a citizen of the state of California for purposes of determining diversity of
10 citizenship under 28 U.S.C. § 1332.

11 13. For the purposes of diversity jurisdiction, a corporation is considered a
12 citizen in the state in which it is incorporated and the state in which its principal place
13 of business is located. UPS is a corporation incorporated in the state of Ohio with its
14 principal place of business located in Atlanta, Georgia. Accordingly, UPS is a citizen
15 of the state of Ohio and the state of Georgia.

16 14. In determining whether a civil action is removable on the basis of
17 jurisdiction arising under 28 U.S.C. § 1332, the citizenships of defendants sued under
18 fictitious names, such as John Doe, is disregarded. *See* U.S.C. § 1332(b)(1).

19 15. Further, Defendant does not believe that Liberty Mutual Insurance
20 Company has been served in this matter.

21 16. Based on the foregoing paragraphs, the requirement of complete diversity
22 of citizenship is satisfied in this case.

23 **AMOUNT IN CONTROVERSY**

24 17. Plaintiff's Complaint requests compensatory damages and punitive
25 damages in the amount of \$10,000,000.00. *See* Exhibit B. Thus, the amount in
26 controversy is easily met.

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RESERVATION OF RIGHTS

18. Defendant denies the allegations contained in Plaintiff's Complaint. Defendant files this Notice of Removal without waiving any defenses, objections, exceptions, or obligations that may exist in its favor in either state or federal court.

19. Further, in making the assertions in this Notice of Removal, Defendant does not concede in any way that Plaintiff has alleged causes of action upon which relief can be granted, that the allegations or inferences drawn therefrom are accurate, or that Plaintiff is entitled to recover any amounts sought.

20. Defendant further reserves the right to amend or supplement this Notice of Removal as appropriate.

WHEREFORE, Defendant respectfully request that this action be removed to the United States District Court for the Northern District of California, and the Superior Court of Alameda proceed no further with respect to this action.

Dated: November 22, 2023

Respectfully submitted,
DINSMORE & SHOHL LLP

By: /s/ Robert D. Prine
Robert D. Prine
Attorney for Defendants,
UNITED PARCEL SERVICE, INC.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on November 22, 2023, a true copy of this document was served by electronic mail upon all registered CM/ECF users, and by United States Postal Service upon all non-registered CM/ECF users in this case as indicated below:

Nicholas Stephens
19983 Forest Ave., Apt. 1
Castro Valley, CA 94546
T: (510) 586-4420
E: nickstephens120@yahoo.com

I declared under penalty of perjury under the laws of the United States of America that the above is true and correct.

/s/ Robert D. Prine

Robert D. Prine